

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Michael Goins,

Plaintiff,

v.

Jimmy Pacheco, *with the division of
mental health of the South Carolina Dep't
of Corrections, in his individual and official
capacities*; Karyn McGuckin, Bethany
Geniese Donald, Courtney Woodruff,
Kanisha Miller, and Sylvia Wardey, *each in
their individual and official capacities,*

Defendants.

Civil Action No. 4:14-4639-RMG

ORDER

This matter is before the Court on the Report and Recommendation of the Magistrate Judge (Dkt. No. 46) recommending that this Court dismiss this action with prejudice *sua sponte* for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Court hereby adopts the Report and Recommendation and dismisses the action with prejudice.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Where the plaintiff fails to file any specific objections, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the

record in order to accept the recommendation,” see *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted), and this Court is not required to give any explanation for adopting the recommendation of the Magistrate Judge, *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

On December 8, 2014, Plaintiff filed a *pro se* complaint seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff alleges that Defendant Dr. Jimmy Pacheco failed to provide him with the proper medication to treat his mental health condition, either prescribing too much medication or too little medication. (Compl. pp. 3–4.) He alleges that he experienced excruciating pain and suffering as a result of the improper dosage of medication. (Compl. p.4.) He also alleges that Dr. Pacheco prescribed the improper medication in retaliation for a grievance Plaintiff filed against him. (Compl. pp. 3–4). As to the remaining Defendants, all mental health counselors, Plaintiff alleges that they ignored his requests to see Dr. Pacheco about his medication. (Compl. p.4.)


Defendants moved for summary judgment on July 14, 2015. Plaintiff failed to respond to that motion, despite receiving a *Roseboro* order from the Court. In fact, except for a request directed to the Clerk for a copy of the docket sheet for this and one other case, Plaintiff has filed nothing since filing for an extension of time to complete discovery on July 2, 2015—a period of over seven months.¹ He asked for no extension of time to oppose Defendants’ motion for summary judgment. He filed no objections to the Report and Recommendation. He asked for no extension of time to object to the Report and Recommendation. He appears to have abandoned his claims. Accordingly, the Court adopts the Report and Recommendation and dismisses the action under

¹ Plaintiff has a motion for a mental examination pending (Dkt. No. 27). That motion does not raise any question regarding his competency as contemplated by Rule 17(c) of the Federal Rules of Civil Procedure. Rather, Plaintiff sought an expert medical opinion in support his claim of medical malpractice.

Rule 41(b) of the Federal Rules of Civil Procedure. Dismissal prevents the Court from reaching the Report and Recommendation's alternative recommendation that summary judgment be granted on Plaintiff's Federal causes of action, but had the Court reached that alternative recommendation, it would have agreed with the Magistrate Judge's thorough review of those claims.

For the foregoing reasons, the Court **ADOPTS** the Report and Recommendation as the Order of this Court and **DISMISSES WITH PREJUDICE** the Complaint, and **DENIES AS MOOT** Plaintiff's motion for mental examination (Dkt. No. 27), Plaintiff's motion to compel (Dkt. No. 30), and Defendants' motion for summary judgment (Dkt. No. 38).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

February 2, 2016
Charleston, South Carolina